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Attorneys for Plaintiffs,
 ELEKTRA ENTERTAINMENT GROUP INC.; BMG
 MUSIC; CAPITOL RECORDS, INC.; MOTOWN
 RECORD COMPANY, L.P.; SONY BMG MUSIC
 ENTERTAINMENT; INTERSCOPE RECORDS; and
 WARNER BROS. RECORDS INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

ADR

BZ

ELEKTRA ENTERTAINMENT GROUP INC.,
 a Delaware corporation; BMG MUSIC, a New
 York general partnership; CAPITOL
 RECORDS, INC., a Delaware corporation;
 MOTOWN RECORD COMPANY, L.P., a
 California limited partnership; SONY BMG
 MUSIC ENTERTAINMENT, a Delaware
 general partnership; INTERSCOPE RECORDS,
 a California general partnership; and WARNER
 BROS. RECORDS INC., a Delaware
 corporation,

CASE NO.

**COMPLAINT FOR COPYRIGHT
 INFRINGEMENT**

Plaintiffs,

v.

JOHN DOE,

Defendant.

GO 44 SEC. N
 NOTICE OF ASSIGNMENT
 TO MAGISTRATE/JUDGE SENT

1 JURISDICTION AND VENUE

2 1. This is a civil action seeking damages and injunctive relief for copyright infringement
3 under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the
7 true identity of Defendant John Doe (“Defendant”) is unknown to Plaintiffs at this time, on
8 information and belief, Defendant may be found in this District and/or a substantial part of the acts
9 of infringement complained of herein occurred in this District. On information and belief, personal
10 jurisdiction in this District is proper because Defendant, without consent or permission of the
11 copyright owner, disseminated over the Internet copyrighted works owned and/or controlled by
12 Plaintiffs. On information and belief, such illegal dissemination occurred in every jurisdiction in the
13 United States, including this one. In addition, Defendant contracted with an Internet Service
14 Provider (“ISP”) found in this District to provide Defendant with the access to the Internet which
15 facilitated Defendant’s infringing activities.

16 PARTIES

17 4. Plaintiff Elektra Entertainment Group Inc. is a corporation duly organized and
18 existing under the laws of the State of Delaware, with its principal place of business in the State of
19 New York.

20 5. Plaintiff BMG Music is a general partnership duly organized and existing under the
21 laws of the State of New York, with its principal place of business in the State of New York.

22 6. Plaintiff Capitol Records, Inc. is a corporation duly organized and existing under the
23 laws of the State of Delaware, with its principal place of business in the State of New York.

24 7. Plaintiff Motown Record Company, L.P. is a limited partnership duly organized and
25 existing under the laws of the State of California, with its principal place of business in the State of
26 California.

27 8. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general
28 partnership, with its principal place of business in the State of New York.

9. Plaintiff Interscope Records is a California general partnership, with its principal place of business in the State of California.

10. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of California.

11. The true name and capacity of Defendant are unknown to Plaintiffs at this time. Defendant is known to Plaintiffs only by the Internet Protocol (“IP”) address assigned to Defendant by his or her ISP on the date and time of Defendant’s infringing activity. See Exhibit A. Plaintiffs believe that information obtained in discovery will lead to the identification of Defendant’s true name.

COUNT I

INFRINGEMENT OF COPYRIGHTS

12. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

13. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this Complaint (collectively, these copyrighted sound recordings shall be identified as the “Copyrighted Recordings”). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of Exhibit A.

14. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

15. Plaintiffs are informed and believe that Defendant, without the permission or consent of Plaintiffs, has continuously used, and continues to use, an online media distribution system to download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies the IP address with the date and time of capture and a list of copyrighted recordings that Defendant

1 has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public.
2 Through his or her continuous and ongoing acts of downloading and/or distributing to the public the
3 Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and
4 distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive
5 rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are
6 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously
7 downloaded and/or distributed to the public additional sound recordings owned by or exclusively
8 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of
9 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being
10 distributed by Defendant.)

11 16. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on
12 each respective album cover of each of the sound recordings identified in Exhibit A. These notices
13 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.
14 These published copies were widely available, and each of the published copies of the sound
15 recordings identified in Exhibit A was accessible by Defendant.

16 17. Plaintiffs are informed and believe that the foregoing acts of infringement have been
17 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

18 18. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights
19 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against
20 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to
21 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

22 19. The conduct of Defendant is causing and, unless enjoined and restrained by this
23 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated
24 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502
25 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing
26 Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound
27 recordings made in violation of Plaintiffs' exclusive rights.

28 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

1. For an injunction providing:

2 Defendant shall be and hereby is enjoined from directly or indirectly
3 infringing Plaintiffs' rights under federal or state law in the
4 Copyrighted Recordings and any sound recording, whether now in
5 existence or later created, that is owned or controlled by Plaintiffs (or
6 any parent, subsidiary, or affiliate record label of Plaintiffs)
7 ("Plaintiffs' Recordings"), including without limitation by using the
8 Internet or any online media distribution system to reproduce (*i.e.*,
9 download) any of Plaintiffs' Recordings or to distribute (*i.e.*, upload)
any of Plaintiffs' Recordings, except pursuant to a lawful license or
with the express authority of Plaintiffs. Defendant also shall destroy
all copies of Plaintiffs' Recordings that Defendant has downloaded
onto any computer hard drive or server without Plaintiffs'
authorization and shall destroy all copies of those downloaded
recordings transferred onto any physical medium or device in
Defendant's possession, custody, or control."

10 2. For statutory damages for each infringement of each Copyrighted Recording
11 pursuant to 17 U.S.C. § 504.

12 3. For Plaintiffs' costs in this action.

13 4. For Plaintiffs' reasonable attorneys' fees incurred herein.

14 5. For such other and further relief as the Court may deem just and proper.

15 Dated: September 20, 2007

16 HOLME ROBERTS & OWEN LLP

17 By: 

18 MATTHEW FRANKLIN JAKSA
19 Attorney for Plaintiffs
20 ELEKTRA ENTERTAINMENT GROUP
21 INC.; BMG MUSIC; CAPITOL
22 RECORDS, INC.; MOTOWN RECORD
23 COMPANY, L.P.; SONY BMG MUSIC
24 ENTERTAINMENT; INTERSCOPE
25 RECORDS; and WARNER BROS.
26 RECORDS INC.

EXHIBIT A**JOHN DOE****IP Address:** 207.62.146.210 2007-04-22 21:19:05 EDT**CASE ID#** 126428557**P2P Network:** Gnutella**Total Audio Files:** 277

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
Elektra Entertainment Group Inc.	Eagles	Hotel California	Hotel California	N38950
BMG Music	Foo Fighters	Learn To Fly	There Is Nothing Left To Lose	285-034
Capitol Records, Inc.	Everclear	Wonderful	Songs from an American Movie - Vol. 1, Learning How to Smile	284-811
Motown Record Company, L.P.	Rick James	Super Freak	Street Songs	25-800
Capitol Records, Inc.	Everclear	Father of Mine	So Much for the Afterglow	181-328
SONY BMG MUSIC ENTERTAINMENT	Journey	Faithfully	Frontiers	43-223
Capitol Records, Inc.	Pink Floyd	Comfortably Numb	The Wall	14-787
Interscope Records	Puddle of Mudd	She Hates Me	Come Clean	301-465
Warner Bros. Records Inc.	The Used	Blue And Yellow	The Used	314-399
SONY BMG MUSIC ENTERTAINMENT	Journey	Open Arms	Escape	30-088